

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 WILLIAM A. BUESS
Deputy Attorney General
4 State Bar No. 134958
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2039
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2010-296**

12 **KEN GEORGE MATIJEVICH**
13 **604 Oliver Avenue**
14 **Huntington Beach, CA 92648**

A C C U S A T I O N

15 **Registered Nurse License No. 597315**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about April 3, 2002, the Board of Registered Nursing issued Registered Nurse
24 License Number 597315 to Ken George Matijevich (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 February 28, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

"..."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"..."

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

“(b) Failure to comply with any mandatory reporting requirements.

"(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

9. California Code of Regulations, title 16, section 1445, states:

“ . . .

“(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

“(1) Nature and severity of the act(s) or offense(s).

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1 of alcohol, and transported to the Newport Beach Police Department, whereupon a blood test was
2 performed, which resulted in a BAC of .18%.

3 c. As a result of Respondent's conviction, on May 28, 2009, Respondent was
4 sentenced to three years informal probation, with requirements that he violate no law, pay fines,
5 assessments and fees, attend and complete an 18 month Multiple Offender Alcohol Program,
6 serve 30 days in the Orange County Jail to be served on 10 weekends, in addition to other terms
7 and conditions of probation.

8 THIRD CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)

10 13. Respondent is subject to disciplinary action under Code section 2762, subdivision (b),
11 in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injuries to
12 himself and to the public, when on two separate occasions, he drove a motor vehicle while under
13 the influence of alcohol, as is more fully described in paragraphs 11 and 12 above, which are
14 incorporated herein by this reference.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct - Convictions of Alcohol-Related Offenses)

17 14. Respondent is subject to disciplinary action under Code section 2762, subdivision (c),
18 in that Respondent was convicted of criminal offenses involving consumption of alcohol, when
19 on two separate occasions, he was convicted of driving under the influence of alcohol, as is more
20 fully described in paragraphs 11 and 12 above, which are incorporated herein by this reference.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

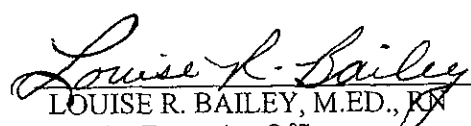
24 1. Revoking or suspending Registered Nurse License Number 597315, issued to Ken
25 George Matijevich Ken George Matijevich.

26 2. Ordering Ken George Matijevich to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/15/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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